IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1802 OF 2005

Shri.Nasir @ Raja Mehmood Khan
& Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

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Ms.Anita G.Bhaktwani for Applicants.

Mr.K.V.Saste, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

MARCH 24, 2005.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. I see no reason to depart from the conclusion reached by the Court below in rejecting the Bail Application preferred by the present Applicants. This Application is filed by accused Nos.4 and 5. It is argued that name of the Applicants is not mentioned in the F.I.R. but appears only in the supplementary statement. It is

further argued that the main witness who has been examined by the Investigating Officer Mr.Nasir Mehmood Sayyed does not support the prosecution case, so as to indicate complicity of the Applicants in the commission of the offence. The submission, however, clearly overlooks that soon after the F.I.R. was registered, on the same day, supplementary statement of the first informant was recorded. In the supplementary statement, the informant has explained the circumstances under which he did not refer to certain aspects and for which reason, it was necessary to record his supplementary statement. The version given in the supplementary statement is supported by three independent witnesses namely, Mohd.Monjam Mohd.Jakasu Shaikh, Ramu @ Ramachal Balnor Harijan and Rafikul Athar Shaikh.

3. All these witnesses have deposed about the overt act of the Applicants. The fact that the other witness Nasir Mehmood Sayyed has not named the Applicants, makes no difference to the case. He has, however, mentioned three names and said, others were also assaulting. Statement of Nasir

Mehmood Sayyed is also recorded on 16th November 2004.

4. In the circumstances, as there is direct evidence to indicate complicity of the Applicants in the commission of the offence and having regard to the seriousness of the offence, not a case for bail.

5. Learned Counsel for the Applicants, however, submits that the investigation is complete and charge-sheet has also been filed and custody of the Applicants is no more required. Besides, the Applicants are of tender age namely 22 and 25 years respectively. Even so, having regard to the seriousness of the offence and material to indicate the brutal manner in which assault was inflicted, not a case for bail. Rejected.

6. As prayer for bail is rejected, Trial Court is directed to expedite the trial as 'High Court Expedited Case'.

7. Application disposed of on the above

terms.

A.M.KHANWILKAR, J.